

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES. See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24.

FILED BY CLERK
NOV 19 2009
COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)
)
Appellee,)
)
v.)
)
KENNETH EUGENE WOJTSECK,)
)
Appellant.)
_____)

2 CA-CR 2008-0383
DEPARTMENT B

MEMORANDUM DECISION
Not for Publication
Rule 111, Rules of
the Supreme Court

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20080595

Honorable Hector E. Campoy, Judge

AFFIRMED

John William Lovell

Tucson
Attorney for Appellant

B R A M M E R, Judge.

¶1 In September 2008, a twelve-person jury found appellant Kenneth Wojtseck guilty of three counts of aggravated assault with a deadly weapon, all dangerous-nature, class

three felonies.¹ It found him not guilty of a similar assault on a fourth victim. The trial court sentenced Wojtseck to concurrent, mitigated, five-year terms of imprisonment.

¶2 Appellate counsel has filed a brief pursuant to *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), “setting forth a detailed factual and procedural history of the case with citations to the record, [so that] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” *Clark*, 196 Ariz. 530, ¶ 32, 2 P.3d at 97. Counsel states, and his brief reflects, that he has thoroughly reviewed the record in this case. He further states he has been unable to find any arguable legal issues to raise on appeal, and he asks us to search the record for fundamental error. Wojtseck has not filed a supplemental brief.

¶3 Pursuant to our obligation under *Anders*, we have reviewed the trial court record in its entirety and have searched the record for error. We have found substantial evidence to support the jury’s verdicts and have found no fundamental error. Wojtseck’s convictions and sentences are, therefore, affirmed.

J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

GARYE L. VÁSQUEZ, Judge

PHILIP G. ESPINOSA, Judge

¹Although the sentencing minute entry refers to the offenses as nondangerous and nonrepetitive, the verdict forms reflect the jury’s findings of dangerousness, and the five-year sentences imposed correspond to the mitigated term statutorily prescribed in former A.R.S. § 13-604(I) for a first-time, class three, dangerous-nature felony when Wojtseck committed the offenses in December 2007. 2007 Ariz. Sess. Laws, ch. 287, § 1.